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欧洲人权法院受理个人环境申诉案件范  
围研究

On the Scope of Accepting the Case of Individual  
Application Concerning Environment by the ECtHR

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## 内容摘要

二战后，欧洲各国宪法虽然扩大了公民享有的基本权利和自由，但多数国家的宪法中并没有明确确认环境权，甚至在《欧洲人权公约》及其议定书中也没有直接确认环境权。然而，随着科学技术和经济文化的进步与发展，人们的日常生活发生了巨变，通过维持生态平衡、保护环境来实现公民享有的生命权、健康权、住宅权已成为社会共识。因此，自二十世纪七十年代以来，学者确认了环境权的基本权利地位。

为了满足环境保护的需要，司法机构和其他人权保障机构试图通过解释手段从规范性文件中推导出环境权，并且从基本权利的视角对环境权进行界定，从而为公民的环境权提供司法保护，使公民的环境诉求获得司法救济。在这一过程中，欧洲人权法院作为区域性司法裁判机构，在受理个人环境申诉案件时，通过扩大解释适用《欧洲人权公约》第二条、第六条和第八条之规定，为环境权提供司法保护。同时，欧洲人权法院的判决对《欧洲人权公约》缔约国的环境立法和环境司法产生一定约束力。

本文从论述欧洲人权法院根据《欧洲人权公约》之规定受理个人申诉案件的一般标准开始，在分析《欧洲人权公约》机构受理个人环境申诉案件历史演变的基础上，进一步论述欧洲人权法院根据《欧洲人权公约》实体性条款和程序性条款之规定受理个人环境申诉案件的范围及其限制。最后，本文将概括总结欧洲人权法院之判决对《欧洲人权公约》的缔约国，尤其是欧盟成员国的环境立法和环境司法产生的约束力。

**关键词：**《欧洲人权公约》；欧洲人权法院；个人环境申诉

## **ABSTRACT**

After the Second World War, while the European countries' constitutions expanded the scope of the fundamental rights and freedom the citizens enjoy, the most constitutions didn't explicitly stipulate the right to environment, even the ECHR and its protocols didn't directly stipulate the right to environment. However, along with the economy and technology progress, people's production and life style have had the revolutionary change. Guaranteeing the right to life, the right to health and the right to one's home through protecting environment, maintaining the ecological balance has become the people's consensus. Therefore, since the 1970's, scholars have regarded the right to environment as one of fundamental rights.

In order to meet the need of environmental protection, the courts and other institutions of human rights protection tried to interpret the constitutions and the international treaties for confirming the environmental rights, and tried to define the environmental rights from the view of fundamental rights. Thus it could provide judicial protection for environmental rights, also could make the environmental complains obtain judicial relief. During the process, the ECtHR as a regional judicial institutions has provided judicial protection for the environmental rights through expanding interpretation and applying the provisions of article 2, article 6 and article 8 of the ECHR, when it accepts the cases of individual application concerning environment. At the same time, the judgments of the ECtHR bind the high contracting parties of the ECHR on its' environmental legislation and judgment.

This thesis will firstly discuss the general admissibility criteria applied by the ECtHR on individual application according to the ECHR, then will analyze the history of accepting the case of individual application concerning environment by the organization of the ECHR, further will discuss the scope and the limitation of accepting the case of individual application concerning environment by the ECtHR according to the substantive and the procedural clauses of the ECHR.

Lastly, this thesis will summarize the binding effects on environmental legislation and justice the judgments of the ECHR bring for the high contracting parties of the ECHR, especially for the EU members.

**Key Words:** the ECHR; the ECtHR; Individual Application Concerning Environment

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